

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 26, 2015

Members Present

David Dowling
Greg Sirb
Sara Jane Cate
Alan Hansen
Jeff Staub
Watson Fisher

Also in Attendance

James Turner
Amanda Zerbe

SE – 2015-03

Applicant: Mark and Lori Everest

Address: 5943 Linglestown Road, 1st Floor
Harrisburg, PA 17112

Property Owner: Mark and Lori Everest
5943 Linglestown Road, 1st Floor
Harrisburg, PA 17112

Special Exception to permit the use of off street parking spaces on a lot not abutting the principal use and to be given a reduction in the number of required spaces at the property located at 5943 Linglestown Road, Harrisburg, PA, 17112. The property is located in the V, Village District. The applicant is seeking an exception for Section 602.E, to permit the use of off-street parking on a lot that is not abutting to principal use. Section 602.F, to authorize a reduction in the total number of required spaces as calculated under 601, Required Number of Parking Spaces.

Grounds: Article 6, Section 602. F

Fees Paid: January 30, 2015

Property Posted: February 17, 2015

Advertisement: Appeared in The Paxton Herald on February 11, 2015 and February 17, 2015.

The hearing began at 8:50 p.m.

Mr. Dowling swore in Mark Everest, who stated that he was the applicant.

Mr. Dowling noted that Amanda Zerbe, Planning and Zoning Officer was previously sworn in.

Mr. Dowling questioned if the appropriate fees have been paid for this application. Ms. Zerbe answered that the fees were paid January 30, 2015. Mr. Dowling questioned if this hearing was properly advertised and posted. Ms. Zerbe answered that the hearing was advertised in the Paxton Herald on February 11, 2015 and February 18, 2015 and posted on February 17, 2015.

Mr. Dowling requested Ms. Zerbe to summarize what Township ordinances are at issue. Ms. Zerbe explained that this is a special exception to permit the use of off street parking spaces on a lot not abutting the principal use and to be given a reduction in the number of required spaces at the property located at 5943 Linglestown Road, Harrisburg, PA, 17112. The property is located in the V, Village District. The applicant is seeking an exception for Section 602.E, to permit the use of off-street parking on a lot that is not abutting to principal use. Section 602.F, to authorize a reduction in the total number of required spaces as calculated under 601, Required Number of Parking Spaces.

Mr. Dowling requested Mr. Everest to provide his testimony to the Board to explain why he needs a special exception for those two sections.

Mr. Everest noted that what he would bring to Linglestown is a healthy café. He noted that he owns a brand called "The Mellow Minded" which his son created. He explained that they want to open the cafe in the lower level of their building as their corporate office is upstairs. He noted that he purchased the building last year. He explained that First Impressions was the retailer at that time and they went out of business. He stated that he wanted to open a healthy café, California-style cuisine of healthy food as he feels that the area is ready for it. He noted that Geof Smith from the St. Thomas Roasters and some other people are present in the audience.

Mr. Everest noted that he would like to bring more to the community for a new type of dining experience, but he will not be competing with Geof or Bill Paterekas's atmosphere for their businesses. He noted that Geof will be roasting coffee for him using the brand name, "Mellow Minded" as he has his own line of coffee. He noted that the café will be featuring causal/fast 90, where you will go up to a menu board and order your food. He noted that he will also be serving fresh smoothies and juices, a healthy cuisine.

Mr. Everest explained that he is in the health business, sports medicine business, as he owns a health and wellness company. He noted that we need something like this in the area.

Mr. Everest explained that he is seeking permission to use the off-street parking. He noted that there is a public parking lot across the street which is about 315 linear feet from his building. He noted that Dan Snow, who owns the building beside him, has parking next door and it is rarely used. He noted that Mary Kay Cosmetics rents Mr. Snow's 2nd floor and occasionally they many have meetings, and the consignment shop on the first floor has minimal traffic. He noted that three quarters of the time, when he is in his building, there is no one in the

parking lot. He noted that Mr. Snow told him to bring the people in and they will share the lot. He explained that he only verbalized that agreement as he has nothing in writing. He explained that Mr. Snow feels the more people who come to Linglestown it more it is good for all the businesses in the Village. He noted that he is requesting the exceptions as there is street parking, the parking that he has in front of his building, behind the building, and the public lot, which in his opinion, many people don't realize that it is a public parking lot. He noted, if this is granted, it would be an opportunity for him to have his customers realize that there is a public parking lot within 315 feet of his front door. He noted if the people used the crosswalk by the St. Thomas Roasters they could use the parking lot if it is needed.

Mr. Everest noted with the amount of seats that he is planning to have in his café, the parking would more than adequately serve it as he would have ample parking using the street, public lot and what he has behind his building to serve the population that he plans to bring into his business.

Mr. Dowling requested Mr. Everest to describe to him what he would be serving. Mr. Everest answered that the menu items that he would serving would be organic in nature, farm to table, the foods that he would be preparing would not be processed and would not have high fat, high cholesterol meals. He noted that it will be low caloric, fresh vegetables and fruits. He noted that the juice bar will be real ingredients and he will not be using any processed sugars or proteins, or things like that that people might want in their drinks. He noted that it will be all plant based products. He noted that he will serve some comfort foods like high-end grown cheese sandwiches, and stuff like that, and there will be a little bit of meat product on the menu. He noted that he travels a lot extensively as he is a professional speaker and he gets around the country and when he is on the west coast in California and Colorado, there are many healthy options for dinning. He noted in Central Pennsylvania, it is very limited. He suggested that the area is now ready for it.

Mr. Everest noted that Terry Miller who is present has been in the food business for a while and he thinks that it is time to serve some healthy food in Central Pennsylvania and Linglestown could be an example for bringing cuisine like this in a nice casual dining atmosphere that is in a great location.

Mr. Sirb questioned if 36 parking spaces are required for the size of this restaurant. Ms. Zerbe answered that we don't have an actual count because she didn't get an engineered plan, but based on the International Building Code's (IBC) calculations it would be 85 parking spaces for a restaurant-based occupancy. Mr. Dowling questioned if that seemed high to her. Ms. Zerbe answered it is extremely high as the IBC sets it based on un-concentrated chairs and tables instead of fixed tables, so that is why he is asking for a reduction from the number required. She noted that Mr. Everest's seating chart shows a maximum of 50 seats in the establishment so that would only require 25 spaces, in addition to his upstairs business which would be four additional spaces.

Mr. Sirb questioned if Mr. Everest will have 50 seats. Mr. Everest answered yes. Mr. Sirb noted that the Township would only require 25 parking spaces. He questioned what the

requirement for the second floor is. Ms. Zerbe answered that it is one parking space per 200 square feet. Mr. Sirb noted that we are up to 30 required parking spaces. Mr. Everest noted that his staff would not be using the designated parking spaces as they would be parking off site.

Mr. Sirb questioned Mr. Everest what parking he has in front of his business. Mr. Everest answered that he has two spots and in the back of the building there are 14 parking spots. He noted that he has 14 on the other side by Mr. Snow's building that are rarely used and Mr. Snow is open to the idea that his patrons can also use that space. Mr. Sirb noted that Mr. Everest has 14 parking spaces abutting the property. Mr. Everest answered that he has 16 parking spaces. Mr. Sirb noted that Mr. Snow has another 14 parking spaces and who is Dan Snow. Mr. Everest explained that Dan Snow owns the building next door to him. He noted that there is a consignment store called Treasurers of the Home in the first floor. Mr. Sirb noted that he has 14 parking spaces. Mr. Staub questioned if he has two parking spaces in front of his building. Mr. Everest answered yes, it is almost like a common parking lot as it gets shared when Mark Kay clients use it; we haven't split hairs if a couple of people park in his side. He noted that they only have a handful of people on the second floor.

Mr. Staub questioned if Dan Snow has two parking spaces in front of his building. Mr. Everest answered not in front. Mr. Staub questioned Mr. Everest if he is the only one who has spaces in front of his building. Mr. Everest answered yes. He noted that there are parking spaces a little further down the road but his spaces are directly behind his building. He noted that it is nice parking as it is paved.

Mr. Sirb noted if you have 16 parking spaces abutting your property and Mr. Snow has 14 parking spaces that equals the 30 that is required but he questioned why the variance is required. Ms. Zerbe answered that Mr. Everest is not permitted to count Mr. Snow's parking spaces. Mr. Everest answered that he does not own those parking spaces.

Mr. Sirb questioned what is in the public parking lot. Mr. Everest noted that it has a little less than 60 parking spaces and it is 316 feet from his property.

Mr. Turner questioned if the purpose of the public parking lot... Ms. Zerbe noted to promote business in Linglestown. Mr. Everest noted that according to Mr. Snow, who was involved with the group when they built the parking lot, he stated that it was to serve those two buildings and other businesses in Linglestown. Mr. Sirb noted that they did not want to have the street filled with cars. Mr. Everest noted that the parking lot is never used. He noted if you will accept this he would like to be able to at least share with the customers that there is parking across the street.

Ms. Cate questioned how direct it is from your spot. Mr. Everest answered that it is right across the street, if you walk out the front door, you could go two ways, you could walk down to the St. Thomas Roasters and cross at the crosswalk or you could go directly across the street, but most people would probably use the crosswalk. Ms. Cate noted once you are across the street how do you get to it. Mr. Everest noted that you go through Zia's alley way. He noted that it is the most direct way.

Mr. Hansen questioned what would the hours of operations be for your business and what the hours are for Mr. Snow's two tenants. Mr. Everest answered that he did not know what their hours are. It was suggested that they are not open at night. He noted that he expects to be open Monday and Tuesdays from 7 a.m. to 2 p.m.; Wednesday through Saturday, 7 a.m. until 9 p.m.; and Sunday would be 9 a.m. unto 2 p.m. for brunch for people coming from church. He explained that he is a member of Holy Name of Jesus Parish and many of those people come to the St. Thomas Roasters on Sunday morning. He noted that it would help both of us as sometimes when he is very busy they will have another option to drink his coffee. He suggested that it helps Mr. Smith and by brining in another food venue, it would help the Eagle Hotel. He noted where towns have restaurant rows, the more viable restaurants you have in any city or town brings more people. He noted that we are looking to bring more business into the community.

Ms. Cate questioned if it would be called The Mellow Minded Café. Mr. Everest answered that his son created this brand. He explained that his sons suffered from severe anxiety and panic disorder over the years and other issues. He noted that four years ago, he said to he and his wife that he wanted to be mellow minded. He noted that he never heard that before and he liked it and his son explained that he made it up. He noted that he Googled it and no one had the name so he protected the domain name four years ago and created a registered trademark noting that the philosophy of mellow minded is peace for life. He noted that there is so much turmoil in the world noting that he talks about stress as a motivational speaker, noting that all the news is stressful so he wants to provide the sensation, feeling, and experience of having some peace with healthy food. He noted that Geof's coffee that he makes for us is Mellow Minded Branded Coffee. He noted that the coffee is hand roasted with love. He noted that Geof is passionate about the love that he puts into his coffee.

Mr. Sirb questioned if you can grow love on a farm. Mr. Everest answered that he loves Mr. Schoffstall's farm. He explained that he would have his own teas, juices, and the food is the nourishment for your soul. He noted that it is not just a café, it is a brand of living that accompanies this model.

Mr. Dowling suggested that the entire Township is getting mellow, we have a winery on a farm and a healthy store now on Linglestown Road. He noted that his concern is the safety issue. He noted that patrons traveling back and forth across Linglestown Road, you have just enough parking on the south side of Linglestown Road but he is concerned about people crossing back and forth. He noted that the lot is not used much although if you are all going to do better with your businesses there will be more people there. He questioned how you safely get people back and forth to the parking lot across Linglestown Road. Mr. Everest answered that you have a cross walk unless the pedestrians don't pay attention to the drivers. He questioned if it was built to only serve those people on that side of the road. Mr. Dowling answered that he did not know as it was built because it was the only land available to build a parking lot. He noted that we can't get around the issue that people have to cross Linglestown Road. Mr. Everest noted if you go to any city in the United States or downtown Harrisburg or Hummelstown, if you are going to go to an establishment that has minimum or no parking, such as Philadelphia, you have to walk across the street to get to it.

Mr. Sirb noted that the idea of the parking lot, at least what he understood was, so that it took the cars off of Linglestown Road because there weren't going to be any spaces, but yet they built all these shops to make the Village the Village but gave them no parking. He noted that the lot has to be used at some point and that was the whole idea of the lot to keep the cars off the road. He noted that he agrees that you don't want people walking back and forth but he would rather walk across that little part of the Village where people are slowing down for the roundabout instead of walking across Second Street in Harrisburg to get to that parking lot.

Mr. Dowling noted that you almost can't enforce our ordinance in the Village of Linglestown. Mr. Sirb agreed. Mr. Dowling noted that there is no contiguous parking that is adequate for a business like this. Mr. Sirb answered that he agrees and that is why the parking lot was built. He noted that he cannot answer why it is not used. Mr. Smith noted that we haven't grown enough yet, there is not enough going on there to use it and that is why we feel this new cafe this will enhance the entire Village.

Mr. Staub noted that about eight years ago, Mr. and Mrs. William Seeds asked for a variance for their properties off the square on the northwest corner for parking as they could not provide enough off street parking for what they were proposing to do at that location. He noted that the Board granted them a variance and part of the justification for the variance was the off street parking lot near the church.

Mr. Martin Schoffstall was previously sworn in at the earlier meeting. He stated as the not-so-silent partner with Mr. Smith and his coffee shop and the owner of commercial properties in Linglestown, Zia's and two adjacent buildings, this is exactly what Linglestown needs. He noted that he has been waiting for the next healthy thing noting that he gets his coffee from St. Thomas. He noted that things that are locally owned, local food are good things and it is a super positive thing from his perspective. He noted that having been at the creation of the parking lot in the alley, in some sense, the function for the parking lot was absolutely for both sides on the road. He noted that is why it was installed in the last ten years and it is greatly unused.

Mr. Dowling questioned why has the restaurant in the old church hasn't done that well. Mr. Schoffstall answered that he can't speak for Zia's as he does not own the restaurant only the property. He noted that it was a rescue effort on his part for a building that was falling apart, to stabilize it for a useful use.

Ms. Cate questioned if it is possible to park at the parking lot by the fire house. Mr. Staub suggested that it would be too far away. Mr. Everest noted, whenever you go to a town and there is something that attracts you, you go to Wrigley Field in Chicago, there is no parking and 45,000 people show up. He noted that they find a place to park. He noted that we are dealing with a café with 50 seats and we have an untapped parking lot. He noted if they wanted to park at the firehouse they could. He stated that he talked to one of his neighbors that Mr. Smith rents from and he stated if his business grows he would create more parking in the grass in the area behind the Roasters that he owns. He noted with Dan Snow being flexible with him, let's get this thing going and bring more people to the community.

Mr. Everest stated that he would be feeding each other locally with food. He noted that we are in a health care crises and getting worse. He noted if we keep eating bad stuff, we will put ourselves into an early grave. He noted that it is time to get people to eat healthy, tasty and reasonably priced nourishment for their soul.

Mr. Dowling questioned if the special exception is granted, do you have a projected opening date. Mr. Everest noted that the next phase is getting a building permit to modify the interior as he is not making pushing out walls, noting that he is looking to do a conduction burning system that would not require an open flame. He noted that it is the most efficient way to cook, so he has a plan and he is meeting with the architect tomorrow. He noted that he did not want to do anything until he had the parking issues settled. He suggested that it would be May or June.

Mr. Staub questioned Mr. Everest if he had a written agreement with Mr. Snow or is it a handshake agreement for share parking. Mr. Everest answered that it is a handshake. Mr. Staub questioned how confident he is about that. Mr. Everest questioned if he knew Mr. Snow. Mr. Staub answered that he knows Mr. Snow from Snow and Vespiani when they bid the development ten years ago. Mr. Everest noted that Mr. Snow is an honorable guy and if you need something in writing he would ask him for it.

Mr. Hansen questioned if Mr. Snow has any signage on his property indicating that parking is for his business only. Mr. Everest answered that there are three parking spots for the consignment shop that have a sign on the fence. He noted that he would not allow anyone to park there, but Mr. Snow's thought was that because there is not much activity in that building even though he has a couple of tenants, was to get his business open and cross that bridge when we get there. He noted if it becomes an issue then he would deal with it although he thought that it might help get more customers for his tenants. Mr. Hansen noted if there are only three signs on the property it would not preclude him from using the other side of the parking area but if they don't see it... Mr. Everest noted that it is pretty clear that the parking is for the consignment shop.

Mr. Dowling questioned if there are any other questions from the Board. There was no response. He then asked if anyone from the audience wished to be heard.

Mr. Dowling sworn in Geof Smith. Mr. Smith explained that he owns St. Thomas Roasters down the street from Mr. Everest. He noted that we are talking about trying to build this critical mass in the Town. He noted that he will be a partner, a supplier to Mr. Everest and to some extent he will also be competitors to include Bill Paterekas. He noted that both he and Bill are here tonight because we get that bringing more people into the town is a good thing and they can choose to go wherever they want to do. He noted if there is overflow at his place, they can go down there and get something different. He noted that he is not concerned about that or with the parking across the street. He noted that people, in buying coffee, want to reach their hand out and have it handed through the window and go to work. He noted when we built our place, we didn't have a situation where we could install a drive-thru but people park in front, run in, and get their coffee and leave. He noted, over the years, our customers park at the very end of the property

people and walk to get their coffee. He noted that it is not ten feet, it is on the same property so your perception is that it is near the place but it is a decent walk from the alleyway up to the front door. He suggested that the same thing will happen when people start coming into a town, they will start parking across the street and there will be more and more things to walk to from that parking lot. He noted that you see it in towns and cities where you start to get more places to shop. He noted that is Mr. Everest's point to get the variance to have less required parking spaces and also to be able to utilize or count those spaces across the street from him. He noted that Mr. Paterekas had to deal with parking issues during and after the construction, but if it is a good enough place, people will come to it and they do. He noted that he does not know if he is back to where he was before the construction, but the place is full and sometimes it is hard to find a parking space or get a seat. He noted that is a good thing as people are coming to his place. He noted that Mr. Everest is bringing a different concept into the town to add to what we are starting to build there. He noted that it is a good thing for the town and if it is a good thing, people will find a place to park.

Mr. Sirb not for the record, the Eagle Hotel surviving the roundabout catastrophe, he had to tip his hat to Mr. Paterekas. He noted that a lesser business man would have folded. Mr. Paterekas stated that he is over 41 years strong. Mr. Sirb noted that he goes there and there is nowhere to park but somehow you find a place to park. He noted that it is a nice little walk in the Village. Mr. Smith noted that his business is closed by that time you are going to the Eagle.

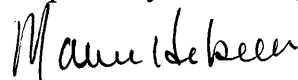
Mr. Everest noted if someone can't walk 300 feet to eat a healthy meal, then they should channel surf.

Mr. Hansen made a motion to approve the Special Exception 15-03 as submitted. Mr. Sirb seconded the motion. Mr. Dowling noted that this is a unique business and it is just what the Township needs and what Linglestown needs and he does not think that the ordinance can really be enforced in the Town of Linglestown as it does not work.

Mr. Turner conducted a roll call vote: Mr. Hansen, aye; Mr. Staub, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Dowling, aye.

The hearing ended at 9:20 p.m.

Respectfully submitted,


Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
: MARK and LORI EVEREST : DOCKET NO. SE 2015-03

DECISION GRANTING SPECIAL EXCEPTION

The applicant seeks a special exception on various parking regulations. A hearing on the application was held on February 26, 2015.

Facts

1. The applicant and owner of the property in question is Mark and Lori Everest of 5943 Linglestown Road, Harrisburg, Pennsylvania 17112.
2. The property in question is located on the south side of Linglestown Road and consists of a rectangular parcel improved with a residential structure which has been converted to commercial uses. The building predates the zoning ordinance. The property is zoned Village.
3. The applicant proposes to create a cafe style restaurant in the property with a maximum of five employees. The parcel has 14 parking spaces in addition to two street spaces and one handicap space. Additional off-street parking is available in the village community parking lot which is located 300-400 feet away from the premises. In addition, the applicant has made informal arrangements with the adjoining property owner to access an additional 14 spaces.
4. Under the ordinance, a total of 50 parking spaces are required.
5. Notice of the hearing was posted and advertisement made as required by the ordinance.
6. No one other than the applicant appeared to testify in favor of or against the proposed special exception.

Conclusions

1. Section 602.E of the ordinance requires a special exception to permit the use of an off-street parking lot that does not abut the principal use. The proposed use of the community parking lot requires a special exception. Section 602.F of the Ordinance grants to the Board the

power to reduce the required number of parking spaces where the conditions set forth in that section are met.

2. The Board finds that the use of the community parking lot in Linglestown is an appropriate use and in fact was contemplated by the creation of the lot. While the distance is greater than that contemplated by the ordinance, it is reasonable and consistent with the intended development patterns of the Village district.

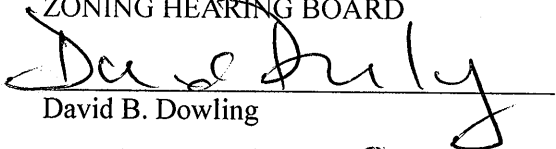
3. Granting a change in the distance of the offsite lot will not impair the public welfare. The distance is still reasonable to expect its use and the plan is buttressed by the availability of other space, albeit on an informal basis.


Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the special exception should be and is hereby granted allowing the use of the community parking lot as offsite parking and authorizing a reduction to 16 for the number of on-site parking spaces.

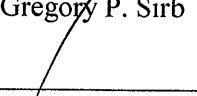
Date: 4/2/15

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD


David B. Dowling


Sara Jane Cate


Gregory P. Sirb


Jeffrey W. Staub


Allan Hansen